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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/585,551	07/10/2006	Graham William Gibbons	MUR07-GN004	7861
36074 7590 09/26/2008 TAFT, STETTINIUS & HOLLISTER LLP SUITE 1800 425 WALNUT STREET CINCINNATI, OH 45202-3957				
EXAMINER				
LEGESSE, NINT F				
ART UNIT		PAPER NUMBER		
3711				
MAIL DATE		DELIVERY MODE		
09/26/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/585,551

**Applicant(s)**

GIBBONS, GRAHAM WILLIAM

**Examiner**

Nini Legesse

**Art Unit**

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☒ Claim(s) 7-23 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☒ Information Disclosure Statement(s) (PTO/SG/08)  
Paper No(s)/Mail Date 12/04/06
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Objections***

**Claims 7-23** are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to other claims in the alternative only. See MPEP § 608.01(n). Accordingly, the claims 7-23 not been further treated on the merits.

### ***Claim Rejections - 35 USC § 112***

**Claim 3** is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The limitation "preferably" is indefinite since the resulting claim does not clearly set forth the metes and bounds of the patent protection desire".

### ***Limitation Not Considered***

**Claims 1-23** are objected to because of the following informalities: for example most of the claims disclose the phrase "adapted to" . It should be noted that the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1-6** are rejected under 35 U.S.C. 102 (b) as being anticipated by MacLean ET al. (US Patent No. 5,863,256).

MacLean discloses an apparatus for practicing golf comprising a body portion (46), first adjustment means (any one of the multiple jack screws (34)), second adjustment means (any one of the multiple jack screws (34)), stance-board (the first two panels where the golfer could stand on as shown on Fig. 1), four adjustment means that have at least four of the adjustment means being provided at different points (any one of the multiple jack screws (34)).

**Claims 1-6** are rejected under 35 U.S.C. 102 (b) as being anticipated by Hanson ET al. (US Patent No. 5,390,926).

Hanson discloses an apparatus for practicing golf comprising a body portion (12), first adjustment means (any one of the multiple units shown in Fig. 7), second adjustment means (any one of the multiple units shown in Fig. 7), stance-board (24), four adjustment means that have at least four of the adjustment means being provided at different points (any one of the multiple raised areas with elements 30 as shown on Fig. 2).

**Claims 1-6** are rejected under 35 U.S.C. 102 (b) as being anticipated by Torchia ET al. (US Patent No. 6,338,682).

Torchia discloses an apparatus for practicing golf comprising a body portion (14), first adjustment means (any one of the multiple units 32), second adjustment means (any one of the multiple units 32), stance-board (24), four adjustment means that have at least four of the adjustment means being provided at different points (any one of the multiple units 32 as shown on Fig. 5).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nini Legesse whose telephone number is (571) 272-4412. The examiner can normally be reached on 9 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Kim can be reached on (571) 272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nini Legesse/  
Primary Examiner, Art Unit 3711